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2008 APR -8 AM 10:25

Magistrate Docket No.


'08 MJ 1084


COMPLAINT FOR VIOLATION OF: _____

Title 8, U.S.C., Section 1326

Deported Alien Found in the United States

On or about **April 7, 2008** within the Southern District of California, defendant, **Oscar MARTINEZ-Chavez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.


SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent


Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Oscar MARTINEZ-Chavez

AUSA KD

PROBABLE CAUSE STATEMENT

On April 7, 2008, Supervisory Border Patrol Agent J. Carrell was performing patrol duties in an area known as "Washer Woman's." This area is approximately two miles east of the San Ysidro, California Port of Entry and approximately one hundred yards north of the United States/Mexico International Boundary.

At approximately 12:05 a.m., a Remote Video Surveillance System (RVSS) observed eight individuals crawling through the grates that cover "Washer Woman's" drainage tubes and watched as the group ran north. Agent Carrell responded to the area and began following footprints into the wooded swamp and found five individuals hiding. Agent Carrell identified himself as a United States Border Patrol Agent and determined the five individuals to be undocumented Mexican citizens illegally present in the United States. Agent Carrell continued on the path and found another individual later identified as the defendant **Oscar MARTINEZ-Chavez**, and identified himself as a United States Border Patrol Agent and conducted an immigration inspection. The defendant stated that he was an undocumented Mexican citizen illegally present in the United States. Border Patrol Agent Marvin Jiron was able to apprehend two individuals in this area. All eight were placed under arrest transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **March 27, 2007** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally. He stated his destination was Los Angeles, California.